

ORIGINAL

Docket #01-109

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)

DA 01-1072

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MAY - 9 2001

Extension of the Five-Year Build-Out)
Period for BTA Authorization)
Holders in the Multipoint Distribution)
Service)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Mass Media Bureau

COMMENTS OF WIRELESS ONE OF NORTH CAROLINA, L.L.C.

Wireless One of North Carolina, L.L.C. ("WONC"), by its attorneys, hereby files these Comments supporting the Mass Media Bureau's ("Bureau") proposal to extend the current five-year build-out requirement for Basic Trading Area ("BTA") authorizations holders in the Multipoint Distribution Service ("MDS") by two years. On April 25, 2001, the Chief of the Bureau issued a Public Notice requesting comment on the Bureau's own motion to extend the build-out requirement by two-years ("April 25 PN").¹ WONC supports this proposal and believes that such an extension will promote the development of two-way services in the BTAs and ensure the successful launch of two-way digital wireless broadband systems throughout the country.

WONC is a wireless broadband operator in North Carolina. In addition to holding licenses for certain incumbent MDS stations in Charlotte and Raleigh, North Carolina, WONC holds authorizations for 11 BTAs in North Carolina. WONC acquired six of these BTA authorizations during the MDS auction in 1996 and since then has acquired five additional BTA authorizations. The build-out date for most of these BTA authorizations is August 16, 2001.²

As the Bureau points out in the April 25 PN, the Commission did not approve use of two-way transmissions on MDS and ITFS frequencies until 1998 and the initial filing window for two-

¹ Pursuant to the April 25, 2001 Public Notice, these Comments are timely filed.

² The build-out date for the Goldsboro-Kinston BTA is October 28, 2001.

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way service was not held until August 14-18, 2000. *Id* at ¶¶3-4. Like many other wireless broadband operators, WONC filed applications for new and modified facilities during the Commission's initial August 2000 window. These applications were only recently granted by the Commission on April 6, 2001. Not surprisingly, BTA authorization holders have not had time to construct two-way facilities pursuant to those recent grants. Most will not be able to complete construction and begin providing two-way services capable of reaching at least two-thirds of the population of the relevant service area in the BTAs by June 16, 2001, when BTA authorization holders are required to file proof with the Commission that they have met the build-out requirements. *See*, 47 C.F.R. §21.930. These delays in construction of the BTA stations are the result of the wholesale change in focus of the wireless cable industry from video programming to two-way digital wireless broadband service.

This sea change in the focus of the wireless cable industry has made it clear that a business plan based solely on video service to subscribers is not viable. The industry has recognized that the increased flexibility provided in the new rules will enhance the competitive position of wireless operators and benefit the public by providing alternative two-way high-speed broadband services. Thus, the industry's wireless broadband operators, including WONC, have reworked their business plans to focus on serving their markets with two-way digital broadband services. Consequently, it would be imprudent and impracticable to build out the BTAs with analog equipment. Because these operators (most of whom, like WONC, hold BTA authorizations) had to wait two years, until August of 2000, for an opportunity to apply for permanent two-way facilities and, as noted above, these applications were granted only very recently, it is impossible for the operators (and BTA authorization holders) to build out every BTA in the nation in the approximately two month period between grant of the two-way authorizations on April 6, 2001 and the BTA build-out notification deadline of June 16, 2001. Therefore, extension of the BTA five-year build-out requirement is warranted.

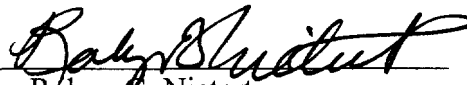
WONC agrees with the Bureau that such an extension will promote the maximization of efficient and effective use of this service and thereby serve the public interest. *Id.* at ¶6. The Bureau points out that the BTA build-out requirement was premised on authorization holders providing wireless cable service in their relevant BTA service areas. *Id.* As noted in the April 25 PN, the purpose of the build-out requirement was to ensure that BTA authorization holders would deliver video programming to the public quickly. *Id.* at ¶6. Now, in most cases, BTA authorization holders, such as WONC, are moving quickly to construct facilities and begin providing two-way high-speed wireless broadband services, not video programming, in their BTAs. However, such two-way services cannot be provided to two-thirds of the population of most BTAs by June 16, 2001. Requiring these authorization holders to meet the five-year build-out requirement would be fundamentally unfair, would inhibit the development of these innovative services, and would be detrimental to the public interest. An additional two years to meet the build-out requirement will give BTA authorization holders time to plan and construct integrated systems that will provide competitive two-way high-speed wireless broadband services in markets throughout the country.

WONC supports the Bureau's proposal to extend the BTA build-out requirement by two years.

Respectfully submitted

WIRELESS ONE OF NORTH CAROLINA, L.L.C.

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